Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

GENEVIEVE ZIELINSKI,

Petitioner,

v.

OAK FOREST POLICE PENSION BOARD,

Respondent.

Petition for Writ of Certiorari to the Appellate Court of Illinois, First District

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Under the due process clause of the Fourteenth Amendment to the United States Constitution, protecting property rights, was the respondent, a Pension Board, authorized to purchase a common stock annuity contract, naming Petitioner's husband as annuitant and itself as beneficiary, by utilizing Petitioner's husband's pension contributions for the purchase of such an annuity?

TABLE OF CONTENTS

	PAGE
QUESTION PRESENTED	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
OPINIONS BELOW	1
JURISDICTION	2
STATEMENT OF THE CASE	2
REASONS FOR GRANTING THE WRIT:	
RESPONDENT PENSION BOARD'S PURCHASE OF A COMMON STOCK ANNUITY CONTRACT, NAMING THE PETITIONER'S HUSBAND AS ANNUITANT AND ITSELF AS BENEFICIARY, BY UTILIZING PETITIONER'S HUSBAND'S PENSION CONTRIBUTIONS FOR THE PURCHASE OF SUCH AN ANNUITY, DEPRIVED THE PETITIONER OF A PROPERTY RIGHT IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION	6
CONCLUSION	13
APPENDICES	*infra*

TABLE OF AUTHORITIES

Cases PAGE

Appelman v. Appelman, 87 Ill.App.3d 749 (1st Dist. 2d Div. 1980) 12

Bough v. Ekstrom, 14 Ill.App.2d 153 (2d Dist. 1957) 11

Davis v. Retirement Board of Policemen's Annuity Fund, 30 Ill.App.3d 318 (1975) 10

Pasakarnis v. Darien-Woodridge Fire Protection District, 251 Ill.App.3d 585 (2d Dist. 1993) 9

Other Authorities

Fourteenth Amendment to the United States Constitution 8, 11, 12

Illinois Revised Statutes, 40 ILCS 5/3-128 7

Illinois Revised Statutes, 40 ILCS 5/3-135(8) 3, 7, 10

Illinois Revised Statutes, 40 ILCS 5/3-144 .. 4, 6, 9, 10, 11

Illinois Revised Statutes, 40 ILCS 5/5-103 .... 5, 6, 10, 11

PETITION FOR WRIT OF CERTIORARI

The Petitioner respectfully requests this Court to issue a Writ of Certiorari to the Appellate Court of Illinois, to review that court's decision and opinion entered on June 27, 1996 (App. A).

OPINIONS BELOW

On June 27, 1996, in an unpublished order, the Appellate Court of Illinois, First Judicial District, affirmed an order of the Circuit Court of Cook County, Illinois, entered on August 15, 1995 (App. D), whereby the Appellate Court of Illinois, First District, held that the respondent, a pension board, was authorized to purchase a common stock annuity contract naming the petitioner's husband as the annuitant and the pension board as beneficiary.

Further, the Appellate Court of Illinois, First District, held that the purchase of such an annuity by respondent pension board, by naming itself as beneficiary, did not violate public policy of the State of Illinois, pursuant to the Illinois Pension Code, nor was the petitioner entitled to the proceeds of the annuity even though the respondent utilized the petitioner's husband's pension contributions for the purchase of the annuity (App. A).

Subsequently thereafter, on July 26, 1996, the Appellate Court of Illinois, First Judicial District, entered an order denying a Petition for Rehearing (App. B) that had been filed by the petitioner requesting the Appellate Court to rehear the matter relative to its affirmation of the Circuit Court's order as described in this Petition for Writ of Certiorari.

On October 2, 1996, the Supreme Court of Illinois denied petitioner's petition for leave to appeal (App. C).

JURISDICTION

1. The decision of the Supreme Court of Illinois was entered on October 2, 1996.

2. The Petition for Writ of Certiorari was filed less than 90 days from the decision of the Supreme Court of Illinois, said denial of the Petition for Leave to Appeal occurring on October 2, 1996.

3. The jurisdiction of this court is invoked under 28 U.S.C. § 1257(3).

STATEMENT OF THE CASE

Genevieve Zielinski is the widow of Leonard R. Zielinski, a former police sergeant of the Village of Oak Forest, Illinois, police department.

On July 13, 1993, Leonard R. Zielinski died.

Prior to Leonard R. Zielinski's death, respondent arranged for an annuity with the Prudential Life Insurance Company, naming itself as a beneficiary, rather than naming the petitioner as beneficiary.

The contract date of the annuity was November 17, 1989; contract #99 694 265.

Upon the death of Leonard R. Zielinski on July 13, 1993, the respondent, as a beneficiary, received a benefit of approximately $350,000, of which fact Genevieve Zielinski was not aware until on or about October 1, 1993.

Prior to obtaining the annuity, Leonard R. Zielinski was found to be disabled, pursuant to appropriate Illinois statutory law governing police pension funds of municipalities of 5,000 or more but less than 500,000 (40 ILCS 5/3-103), and was receiving a disability pension, not-on-duty (40 ILCS 5/3-114.2).

After Leonard R. Zielinski's death, the petitioner, as his widow, commenced receiving $1,519.42 per month, pursuant to 40 ILCS 5/3-114.2, entitled "Disability Pension—Not on Duty":

> If a police officer on disability pension dies while still disabled, the disability pension shall continue to be paid to the officer's survivors in the sequence provided in Section 3-112.

Under 40 ILCS 5/3-112, entitled "Pension to Survivors," in the absence of an annuity provision, it is provided:

> Upon the death of a police officer entitled to a pension under Section 3-111, the surviving spouse shall be entitled to the pension to which the police officer was then entitled.

The respondent's action, in arranging for an annuity for Leonard R. Zielinski, with its being named beneficiary, was an *ultra vires* act, since it is not authorized by 40 ILCS 5/3-135 to draw and invest funds for arranging for an annuity with a beneficiary of the pension fund payable to the pension fund:

> 5/3-135. To draw and invest funds
>
> § 3-135. To draw and invest funds. To draw pension funds from the treasurer of the municipality, and invest any part thereof in the name of the board in: (1) interest bearing bonds or tax anticipation warrants of the United States, of the State of Illinois, or of any county, township or municipal corporation of the State of Illinois; (2) insured withdrawable capital accounts of State chartered savings and loan associations; (3) insured withdrawable capital accounts of federal chartered federal savings and loan associations if the withdrawable capital accounts are insured by the Federal Savings and Loan Insurance corporation; (4) insured investments in credit unions if the investments are insured by the National Credit Union

> Administration; (5) savings accounts or certificates of deposit of a national or State bank; (6) securities described in item 5.1 of Section 1-113 of this Code, but only subject to the conditions therein set forth; (7) contracts and agreements supplemental thereto providing for investments in the general accounts of a life insurance company authorized to do business in Illinois; (8) separate accounts of a life insurance company authorized to do business in Illinois, comprised of common or preferred stocks, bonds, or money market instruments; and (9) separate accounts managed by a life insurance company authorized to do business in Illinois, comprised of real estate or loans upon real estate secured by first or second mortgages. The total investment in such separate accounts shall not exceed 10% of the aggregate book value of all investments owned by the fund. All securities shall be deposited with the treasurer of the municipality, and be subject to the order of the board. Interest on the investments shall be credited to the pension fund.

The respondent's action, in arranging for an annuity for Leonard R. Zielinski, with itself being named beneficiary, was an *ultra vires* act and prohibited by 40 ILCS 5/3-144:

> 5/3-144. Application to certain police officers' annuity and benefit funds
>
> § 3-144. Application to certain police officer's annuity and benefit funds. As of July 20, 1949, the pension fund established under this Article superseded and replaced any annuity and benefit fund in operation under "An Act to provide for the creation, setting apart, maintenance and administration of a policemen's annuity and benefit fund in cities having a population of not less than one hundred thousand and not more than two hundred thousand inhabitants", approved June 12, 1931, as amended, which Act was repealed in 1949. Any such superseded fund was merged into and became a part of the pension fund established under this Article.

> All annuities, pensions and other benefits granted under any such superseded fund or any pre-existing police pension fund, and claims pending under such funds which were approved by the board of the superseding funds shall be paid by the board of trustees of the funds established under this Article according to the law under which the annuities, pensions or other benefits were granted.

The respondent board's action in arranging for an annuity for Leonard R. Zielinski, naming itself as beneficiary, violates public policy as expressed in 40 ILCS 5/5-103, governing widow annuity benefits for municipalities of more than 500,000, as reflected by the following sections of 40 ILCS:

5/5-133	"Widow's prior service annuity";
5/5-135	"Amount of present employee's widow's annuity on effective date";
5/5-136	"Widow's annuity—All employees attaining age 57 in service";
5/5-136.1	"Widow's annuity—Alternative calculation";
5/5-137	"Widow's annuity—All employees—Death in service";
5/5-138	"Widow's annuity—All employees—Withdrawal after age 50";
5/5-139	"Widow's Annuity—All employees—Withdrawal before age 50 and death after age 50";
5/5-140	"Widow's Annuity—All employees—Withdrawal and death before age 50";
5/5-141	"Widow's Annuity—Re-entry and new fixation";
5/5-142	"Widow's Annuity—Determination of age of widow";

5/5-143 "Widow's Annuity—Limitations after fixation";

5/5-145 "Minimum annuity to widow of present employee or of former policeman who re-entered service".

The respondent, in paying for the annuity, utilized pension funds to which Leonard R. Zielinski had contributed, pursuant to 40 ILCS 5/3-125, said contributions being deducted from Leonard R. Zielinski's police sergeant's salary, at the rate of 8½% per salary period.

By the pension board's utilizing Leonard R. Zielinski's pension contributions for the payment of the annuity, Leonard R. Zielinski, in effect, paid for the annuity to which the petitioner would be entitled as his widow.

REASONS FOR GRANTING THE WRIT

RESPONDENT PENSION BOARD'S PURCHASE OF A COMMON STOCK ANNUITY CONTRACT, NAMING THE PETITIONER'S HUSBAND AS ANNUITANT AND ITSELF AS BENEFICIARY, BY UTILIZING PETITIONER'S HUSBAND'S PENSION CONTRIBUTIONS FOR THE PURCHASE OF SUCH AN ANNUITY, DEPRIVED THE PETITIONER OF A PROPERTY RIGHT IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

On page A-3 of its Order, the Appellate Court has ruled that 40 ILCS, section 3-144, has no application to the investments that are to be undertaken by a pension board via 3-135(8).

At the same time, in its ruling, the Appellate Court has found that 40 ILCS, section 3-144, has superseded prior law governing municipalities of less than 500,000, by requiring that those pension boards, such as the Oak Forest

Police Pension Board, grant only pensions, and not annuities, to its retired members.

Additionally, the Appellate Court holds that via 40 ILCS section 5/3-135(8), the pension board of a municipality of less than 500,000, by this section of the statute, permits a pension board, such as Oak Forest Police Pension Board, to purchase annuities.

Further, on page A-4 of its Order, the Appellate Court has ruled that pursuant to section 3-135(8) of the Code, a police pension board is authorized to invest pension funds in the name of the board.

As the Appellate Court is fully aware, a police pension board consists of trustees pursuant to 40 ILCS 5/3-128, entitled Board created, and those trustees are:

> A board of 5 members shall constitute a board of trustees to administer the pension fund and to designate the beneficiaries thereof. The board shall be known as the "Board of Trustees of the Police Pension Fund" of the municipality. Two members of the board shall be appointed by the mayor or president of the board of trustees of the municipality involved. The 3rd and 4th members of the board shall be elected from the active participants of the pension fund by such active participants. The 5th member shall be elected by and from the beneficiaries.

It is the contention of the petitioner that a trustee of the police pension board should have been named as the annuitant, since it would not involve the concept that an annuitant's widow or annuitant's survivors be required to be beneficiaries.

By employing that technique, a police pension board, such as the Oak Forest Police Pension Board, would be complying with section 3-135(8) that the pension board would be investing pension funds in the name of the board.

Based upon the petitioner's position as expressed herein, when the Supreme Court of Illinois denied the petitioner's petition for leave to appeal to review the Appellate Court decision, it is the contention of the petitioner that the respondent's naming of the petitioner's husband as an annuitant, with the respondent being named as beneficiary, deprived the petitioner of a property right protected by the Fourteenth Amendment to the United States Constitution, which Fourteenth Amendment provides:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Further, on page A-4 of the Court's opinion, the Court contends that "since Oak Forest has a population of less than 500,000, its pension fund is governed by the provisions of Article 3 of the Code (40 ILCS 5/3-103 (West 1994))", and therefore the petitioner's reliance upon Article 5 is irrelevant because that is not the issue before the Court.

On the other hand, on page A-4, the Appellate Court also maintains that, if Article 5 of the Code were somehow relevant, it found nothing in Article 5 or any other provision of the Code that suggested the purchase of an annuity by the board violated a public policy.

For the purpose of determining the expressed policy of a statute, the defining of a public policy is required.

Pasakarnis v. Darien-Woodridge Fire Protection District, 251 Ill.App.3d 585 (2d Dist. 1993), at 587, defines public policy as:

> A clearly mandated public policy "concerns what is right and just and what affects the citizens of the State collectively. It is to be found in the State's constitution and statutes and, when they are silent, in its judicial decisions. [Citation] Although there is no precise line of demarcation dividing matters that are the subject of public policies from matters purely personal, *** a matter must strike at the heart of a citizen's social rights, duties, and responsibilities before the tort will be allowed." *Palmateer v. International Harvester Co.* (1981), 95 Ill.2d 124, 130.

In determining the existence of public policy for the purpose of extending the principle of retaliatory discharge to an at-will part-time fire chief, who had been terminated for advocating the training of part-time firefighters, in *Pasakarnis v. Darien-Woodridge Fire Protection District*, 251 Ill.App.3d 585 (2d Dist. 1993) at 587, the appellate court determined that the public policy was expressed in the Illinois Fire Protection Training Act, which act required that all firefighters, whether full time or part time, had to be properly trained for the protection of the health, safety, and welfare of the public.

In this instance, the plain and ordinary meaning of 40 ILCS 5/3-144 expressed the public policy of the state that the pension fund superseded and replaced the annuity and benefit fund, providing for pensions for police officers and the widows of such police officers in municipalities of less than 500,000.

Because the legislature created two different types of pension benefits: pensions for one group, annuities for another group, that difference expressed the public policy of the legislature, pursuant to the analysis as found in

Davis v. Retirement Board of Policemen's Annuity Fund, 30 Ill.App.3d 318 (1975).

Davis held that, where the legislature had expressly provided that annuitants of deceased firemen should enjoy benefits of subsequent increased child annuity amounts, but had enacted no comparable provision in respect to existing child annuitants of deceased policemen, it should be inferred that deceased policemen's existing child annuitants were not to enjoy the same benefits of subsequent increased annuity amounts.

Under the *Davis* reasoning, since the statute governing the petitioner would not provide an annuity provision comparable to that found in 40 ILCS 5/5-103, 5/133 through 145, it cannot be inferred that annuities are available for municipalities of 500,000 or under, since the legislature expressed the public policy that only municipalities of over 500,000, 40 ILCS 5/5-103, have the power to provide for annuities.

Therefore, when the Illinois legislature passed 40 ILCS section 3-144, it purposely required pension boards, such as the Oak Forest Police Pension Board, to substitute pensions for annuities in providing benefits to retirees, widows of retirees, and other survivors of retirees.

Consequently, the Illinois legislature's intent for utilizing annuities is that the annuitant's beneficiary be the annuitant's wife or annuitant's survivors, not a pension fund.

However, the petitioner also maintains that 40 ILCS section 3-135(8) and 40 ILCS section 3-144 can be reconciled if the annuity investment is in the name of one of the trustees comprising the pension board, thereby avoiding any requirements that the annuitant's widow, or survivors, must be named as beneficiaries.

Based upon the petitioner's argument as expressed in this Petition for Writ of Certiorari, when the Supreme Court of Illinois denied the petitioner's petition for leave to appeal to review the Illinois Appellate Court decision, relative to the respondent, a pension board, in naming the petitioner's husband as annuitant and itself as beneficiary, in effect, the Illinois Supreme Court decision violated the public policy as expressed in Illinois Pension Code 40 ILCS 5/3-144 and 40 ILCS 5/5-103, resulting in a deprivation of petitioner's property right in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

Furthermore, on page A-5, the Appellate Court has ruled that the contributions by Leonard R. Zielinski became public funds over which Leonard R. Zielinski had no control and in which he had no right, although the Appellate Court did recognize that the respondent, pension board, has a separate account for pension funds, to which funds the petitioner's husband contributed via pension deductions from his salary.

Nevertheless, the basis for the Appellate Court's position that petitioner's husband had no right over the fund was its reliance upon *Bough v. Ekstrom*, 14 Ill.App.2d 153 (2d Dist. 1957).

Yet the Court did recognize on page A-5 that petitioner's husband had an entitlement to those funds from the standpoint of refunds.

Because of the above, it is the position of the petitioner that Leonard R. Zielinski's funds could not be utilized to purchase the annuity in question, since there was a fiduciary relationship between the board and Leonard R. Zielinski that prevented the board from utilizing Leonard R. Zielinski's contributions to unjustly enrich itself, even

though there was no wrongdoing on the part of the board. *Appelman v. Appelman*, 87 Ill.App.3d 749 (1st Dist. 2d Div. 1980).

In this instance, the Oak Forest Police Pension Fund realized a windfall of $350,000 which involved Leonard R. Zielinski's contributions to the fund without providing any benefit to Leonard R. Zielinski for those moneys.

As a consequence, in this instance, the court's order has violated the petitioner's due process right under the Fourteenth Amendment to the United States Constitution by holding that the Oak Forest Police Pension Board can invest moneys relative to the contributions of the petitioner's husband which contributions this Court has recognized as a vested right via the refund provision of the Code.

By the Supreme Court of Illinois denying the petitioner's Petition for Leave to Appeal to review the Appellate Court decision, the Illinois Supreme Court ruling allows pension boards to purchase annuities using the vested contributions of participants, such as Leonard R. Zielinski, without providing a benefit to widows, such as the petitioner, thereby depriving the petitioner of a property right in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

CONCLUSION

For the above-stated reasons, this Court should grant this Petition for Writ of Certiorari.

Respectfully submitted,

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Attorney for Petitioner

APPENDICES

APPENDIX A

No. 1-95-3190

Opinion of the Appellate Court of Illinois, First District

Fourth Division — June 27, 1996

GENEVIEVE ZIELINSKI,

Plaintiff-Appellant,

v.

OAK FOREST POLICE PENSION BOARD,

Defendant-Appellee.

Appeal from the Circuit Court of Cook County
No. 94 CH 6397
Honorable John N. Hourihane, Judge Presiding

ORDER

The plaintiff, Genevieve Zielinski, appeals from an order of the circuit court dismissing her declaratory judgment complaint for failure to state a cause of action. For the reasons which follow, we affirm.

The plaintiff is the widow of Leonard R. Zielinski. Prior to his death on July 13, 1993, Leonard R. Zielinski was receiving a non-duty related disability pension from the City of Oak Forest Police Pension Fund (Fund) pursuant to the provisions of section 3-114.2 of the Illinois Pension Code (Code) (Ill.Rev.Stat. 1989, ch. 108½, par 3-114.2 (now 40 ILCS 5/3-114.2 (West 1994))).

On November 17, 1989, the Fund purchased a 100% common stock annuity contract from the Prudential Insurance Company. That annuity contract listed Leonard R. Zielinski as the annuitant and the Fund as owner and beneficiary.

Upon the death of Leonard R. Zielinski, the Fund collected the proceeds of the annuity contract and commenced paying the plaintiff the survivor's pension to which she was entitled pursuant to sections 3-112 and 3-114.2 of the Code (40 ILCS 5/3-112, 3-114.2 (West 1992)).

The plaintiff filed the instant declaratory judgment action against the City of Oak Forest Police Pension Board (Board) contending that the Fund's purchase of the annuity contract on the life of Leonard R. Zielinski was not authorized by the provisions of section 3-135 of the Code (Ill.Rev.Stat. 1989, ch. 108½, par 3-135 (now 40 ILCS 5/3-135 (West 1994))) and was prohibited by the provisions of section 3-144 of the Code (Ill.Rev.Stat. 1989, ch. 108½, par 3-144 (now 40 ILCS 5/3-144 (West 1994))). The plaintiff also contended that the purchase of such an annuity naming the Fund as the beneficiary and utilizing the pension contributions of the annuitant violates the public policy embodied in the Code. In her complaint, the plaintiff sought, *inter alia*, a declaration that the proceeds of the annuity contract received by the Fund are the property of the plaintiff.

The Board moved to dismiss the plaintiff's complaint for failure to state a cause of action. The trial court granted the Board's motion, and this appeal followed.

The plaintiff contends on appeal, as she did before the trial court, that: 1) the Fund was not authorized to purchase a common stock annuity contract naming Leonard R. Zielinski as the annuitant and the Fund as owner and

beneficiary; 2) the purchase of such an annuity was specifically prohibited by the provisions of the Code; and 3) the purchase of such an annuity violates the public policy embodied in the Code. The plaintiff further contends that she is entitled to the proceeds of the annuity contract as it was purchased with the pension contributions made by her late husband, Leonard R. Zielinski. We disagree.

Plaintiff's reliance upon section 3-144 of the Code is totally misplaced. When enacted, this statute did nothing more than provide that, as of July 20, 1949, the pension fund established under Article 3 of the Code (40 ILCS 5/3-101 *et seq.* (West 1994)) superseded and replaced certain policemen's annuity and benefit funds theretofore existing, merged those funds into the fund established under Article 3, and provided for the continuation of annuities, pensions and other benefits granted under any superseded fund. 40 ILCS 5/3-144 (West 1994). Plaintiff does not allege, nor do the facts of this case suggest, that the Board in any way attempted to provide Leonard R. Zielinski or his survivors with a pension or annuity benefit other than those provided for in Article 3 of the Code. Further, section 3-144 has nothing whatever to do with the investments that a pension fund is permitted to make.

By statute, the Board was authorized to receive, manage and invest all money donated, paid or assessed for the pensioning of disabled and retired Oak Forest police officers, their surviving spouses, minor children and dependent parents. Ill.Rev.Stat. 1989, ch. 108½, par. 3-132 (now 40 ILCS 5/3-132 (West 1994)). Section 3-135 of the Code authorized the Board to invest pension funds in the name of the Board in separate common stock accounts of a life insurance company authorized to do business in Illinois. Ill.Rev.Stat. 1989, ch. 108½, par. 3-135(8) (now 40 ILCS 5/3-135(8) (West 1994)). We find, as did the trial court, that

the annuity contract purchased by the Board in this case complies fully with the provisions of section 3-135(8).

As for the plaintiff's reliance upon sections 5-133 through 5-145 of the Code in support of her argument that the Board's action in purchasing the annuity contract in issue violates public policy, suffice it to say that those sections of the Code are contained in Article 5 (40 ILCS 5/5-101 *et seq.* (West 1994)) which is applicable to municipalities with a population in excess of 500,000 (40 ILCS 5/5-101 (West 1994)). Since Oak Forest has a population of less than 500,000, its pension fund is governed by the provisions of Article 3 of the Code (40 ILCS 5/3-103 (West 1994)), and the sections of the Code upon which the plaintiff relies are, therefore, irrelevant to the issues before us. Even if the provisions of Article 5 of the Code were somehow relevant to this case, we find nothing in Article 5, or any other provision of the Code for that matter, which suggests that the Board's purchase of the annuity contract in issue violated the public policy of this State.

Lastly, the plaintiff contends that since the annuity contract in issue was purchased with funds contributed by Leonard R. Zielinski, the proceeds of that annuity should be paid to her as a surviving spouse. This contention finds no support in the statutes of this state or in any reported decision that our research has revealed.

The Code does not require that the Board segregate pension contributions that it receives into separate accounts for each of the participants. To the contrary, section 3-132 provides that "[a]ll such moneys shall be placed by the treasurer of the municipality to the credit of the fund, subject to the order of the board." 40 ILCS 5/3-132 (West 1994). Section 3-135 of the Code authorizes the Board to invest pension funds in the name of the Board. 40 ILCS 5/3-135 (West 1994).

Once Leonard R. Zielinski made his required pension contributions, those contributions became public funds over which he had no control and in which he had no right. See *Raines v. The Board of Trustees of the Illinois State Teachers' Pension and Retirement Fund*, 365 Ill. 610, 7 N.E.2d 489 (1937); *Blough v. Ekstrom*, 14 Ill.App.2d 153, 144 N.E.2d 436 (1957). Any interest or income earned from the Board's investment of those funds was public money to be held, managed, reinvested, and paid out by the Board in accordance with the provisions of the Code. Leonard R. Zielinski's only entitlement, along with his surviving spouse and dependents, was to receive the benefits or refunds provided in Article 3 of the Code.

For these reasons, we affirm the dismissal of the plaintiff's complaint.

Affirmed.

HOFFMAN, P.J., with CAHILL and S. O'BRIEN, JJ., concurring.

APPENDIX B

[Entered July 26, 1996]

No. 1-95-3190

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

GENEVIEVE ZIELINSKI,

Plaintiff-Appellant,

v.

OAK FOREST POLICE PENSION BOARD,

Defendant-Appellee.

Appeal from the Circuit Court of Cook County
Honorable John N. Hourihane, Judge Presiding

ORDER

This cause coming to be heard on the Petition For Rehearing, of the Plaintiff, GENEVIEVE ZIELINSKI, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED: that, the Petition for Rehearing be denied. DATED AT CHICAGO, ILLINOIS THIS 26th DAY OF July, 1996.

ENTER:

/s/ T. HOFFMAN
JUSTICE

/s/ R. CAHILL
JUSTICE

/s/ S. O'BRIEN
JUSTICE

ORDER ENTERED
JUL 26 1996
APPELLATE COURT, FIRST DISTRICT
4th DIV.

APPENDIX C

(Letterhead of)

ILLINOIS SUPREME COURT
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October 2, 1996

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No. 81682—Genevieve Zielinski, petitioner, v. Oak Forest Police Pension Board, respondent. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause. The mandate of this Court will issue to the Appellate Court on October 24, 1996.

APPENDIX D

[Entered August 15, 1995]

IN THE

CIRCUIT COURT OF COOK COUNTY, ILLINOIS

GENEVIEVE ZIELINSKI

v. No. 94 CH 6397

OAK FOREST POLICE PENSION BOARD

ORDER

This matter having come before the court on defendant's motion to dismiss pursuant to Section 2-615 and 2-619 of the Illinois Code of Civil Procedure, It Is Ordered as Follows:

Defendant's motion to dismiss pursuant to 2-615 is granted.

This is a final appealable order and there is no just reason for delaying enforcement or appeal thereof.

ENTERED
Clerk of the Circuit Court

August 15, 1995
Judge John Hourihane #497
Deputy Clerk /s/ H